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Recommended Citation

South Dakota State University, Cooperative Extension, "Elections and Suffrage 1974" (1974). *SDSU Extension Fact Sheets*. 691.

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Elections & Suffrage 1974



Cooperative Extension Service
South Dakota State University
U. S. Department of Agriculture

Elections & Suffrage 1974

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Reviewed by **Dr. J. P. Hendrickson**, head, Political Science Department.

On November 5, 1974, the voters of South Dakota will again have the opportunity to vote on replacement articles to their State Constitution. The two proposed articles would replace the present Legislative and the present Elections and Suffrage articles. Each article will be voted on separately.

The proposed Legislative, and the Elections and Suffrage articles are the result of research and public hearings conducted by the South Dakota Constitutional Revision Commission. The Commission was formed in 1969 by an act of the State Legislature and given the task of modernizing the State Constitution. Legislative action in 1974 to place the proposed Elections and Suffrage article on the ballot received a House vote of 64-2 and a Senate vote of 33-0.

This fact sheet contains information about the proposed Elections and Suffrage Article, along with the text of the present and proposed articles.

What are the goals of the proposed Elections and Suffrage Article?

The major goal of the proposal is to protect the right of the citizen to have control over governmental functions. One of the ways this can be done is through the electoral process. The new article would protect the citizen's right to participate in elections. In order to provide flexibility, the Legislature is given the responsibility for prescribing the details of an election system.

Another goal of the proposed change is to simplify and clarify the language of the present article. Many of the provisions contain ambiguous terms and outdated phraseology, and some provisions are no longer applicable.

The proposed changes would also create a more unified article—a goal of constitutional revision. Section 19 of the Bill of Rights, guaranteeing the right to vote, will be transferred to Section 1 of the proposed Elections and Suffrage Article.

What are the qualifications needed to be eligible to vote?

Citizen participation in the electoral process is essential to a democratic form of government. One of

the goals of the proposed article is to enable as many citizens as possible to actively participate in elections. Therefore, the voter qualifications that are listed in the Constitution are kept to a minimum. A person must be (1) a United States Citizen, (2) 18 years of age or older, and (3) have fulfilled all residency and registration requirements to be eligible to vote.

The essential reason, however, for any constitutional requirements on voting is to protect the basic right of the citizen to vote in all elections. The Legislature may provide voting disqualifications for mental incompetency or for a felony conviction.

Note: The 26th Amendment of the United States Constitution, ratified in 1971, and an amendment adopted by the voters of South Dakota in 1972, have already set the minimum voting age at 18 years of age.

What guarantees are provided to protect the citizen's right to vote?

Besides the general guarantees which protect the right of the citizen to vote, there are other provisions which govern various circumstances a qualified voter may encounter at election time.

The proposed article provides that a qualified voter will not lose his residency for voting in an election merely by being away from the state for a period of time. A voter who has not established a voting residence in another area is entitled to vote in the area from which he is absent.

A similar provision states that if a qualified voter moves to a different precinct, he is allowed to vote in his former precinct until a new voting residence is established. The voter would have to meet all residency requirements in his new precinct and then register with local officials.

These protections are also included in the present Elections and Suffrage Article.

Are residency requirements specifically listed in the proposed article?

Residency requirements are not specifically listed in the proposed article. In the replacement article, the Legislature is given the responsibility to determine state, county and precinct residency requirements.

The United States Supreme Court has declared many residency requirements imposed by state constitutions and laws unconstitutional; therefore, state and local residency requirements have become quite transitory. The determination of residency requirements would be left to the Legislature so that it could implement whatever the Supreme Court adopts as the proper requirements. If requirements were included in the Constitution, it would be a difficult and lengthy process to bring the Constitution up to date with the Supreme Court rulings.

What is the role of the State Legislature in the election process?

The role of the State Legislature is to supply guidelines, through statutes, for a proper system of elections. The many specific details for the administration of an election system are by nature quite flexible and, therefore, are placed under the control of our elected legislators and not in a basic document. The definition of residency for voting purposes will be established by the Legislature following guidelines determined by Supreme Court decisions.

Important phases of our election system, such as secrecy in voting, voter registration, absentee voting and nomination of candidates, will be under Legislative control provided for in the Constitution. The Legislature will also have the responsibility of ensuring the right of those serving in the armed forces to participate in elections.

Why aren't specific details concerning the election process provided for in the Constitution?

One of the primary goals of the Constitutional Revision Commission is to eventually provide the people of South Dakota with a Constitution which will state the rights of all the people of this state. The need for changes in the details will be entrusted to the elected legislators to determine and enact. This procedure is necessitated by the changes in our society and interpretations of laws by the Supreme Court not foreseen when a Constitution is written. The need for regular changes in details in our Constitution will then be eliminated by giving the responsibility for determining specific details to our popularly elected legislators.

What provisions have been deleted from the present Elections and Suffrage Article?

In the present article, there are two sections that were a part of the original 1889 State Constitution. One section allowed women to run for office and to vote in elections for school purposes and another one provided for an election to determine if women should be allowed to vote. With the passage of the 19th Amendment to the United States Constitution in 1920, no woman can be denied the right to vote solely on the basis of her sex. Both of these sections are clearly obsolete and are not included in the replacement article.

There is a provision in the present article which allows shorter residence requirements for electors in order to vote for President and Vice-President of the United States. This provision is now obsolete because of recent U.S. Supreme Court rulings concerning residency requirements.

Another section provided that all general elections shall be held every 2 years. This is a detail that can be adequately controlled by statutes, therefore, is not included in the replacement article. The Legislature would have the responsibility to enact a law that would provide for biennial elections.

Are there other basic guarantees to protect the right of the citizen to vote?

The right to vote in all elections is so essential to the operation of our government that protections providing for the exercise of this right are included in the United States Constitution. The 15th, 19th, and 24th amendments to the United States Constitution prohibit the states from using race, color, previous condition of servitude, sex, or failure to pay a poll tax as a qualification for voting. Other United States constitutional amendments through interpretation by the courts may also protect this freedom. The Congress has the authority to enforce these amendments by enacting appropriate laws.

Where can you get more information?

It is impossible to answer all of your questions about constitutional revision in a publication of this size. If you would like more information, ask your area or county Extension home economist or your county Extension agent for FS 623 on general information pertaining to constitutional revision, and/or FS 625 on the Legislative Article; or you may contact the League of Women Voters, local legislators or write to: Executive Secretary, Constitutional Revision Commission, % State Capitol, Pierre, S.D. 57501.

Elections and Suffrage

Article VII

Recommended

Section 1

Right to Vote

Elections shall be free and equal, and no power, civil, or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Section 2

Voter Qualification

Every United States citizen eighteen years of age or older who has met all residency and registration requirements shall be entitled to vote in all elections and upon all questions submitted to the voters of the state unless disqualified by law for mental incompetence or the conviction of a felony. The Legislature may by law establish reasonable requirements to insure the integrity of the vote.

Each elector who qualifies to vote within a precinct shall be entitled to vote in that precinct until he establishes another voting residence. An elector shall never lose his residency for voting solely by reason of his absence from the state.

Section 3

Elections

The legislature shall by law define residence for voting purposes, insure secrecy in voting and provide for the registration of voters, absentee voting, the administration of elections, the nomination of candidates and the voting rights of those serving in the armed forces.

Current

(Article VI, Bill of Rights)

Section 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the state, under regulations to be prescribed by the legislature.

Section 1. Every person resident in this state, who shall be of the age of eighteen years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall have resided in the United States five years, in this state one hundred and eighty days, in the county ninety days, and in the election precinct where such person offers his vote thirty days next preceding any election, shall be a qualified elector at such election pro-

vided: that no elector in the state by reason of having changed his residence from one county or precinct to another shall be deemed to have lost his right to vote at any election in the precinct from which he has removed until he shall have acquired a new voting residence in the county or precinct to which he has removed.

First. Citizens of the United States.

Second. Persons of foreign birth, who have become naturalized citizens conformably to the laws of the United States, upon the subject of naturalization. (As amended November, 1972, pursuant to Ch. 1, Laws of 1971.)

Section 6. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

Section 8. No person under guardianship, non compos mentis or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

Section 3. All votes shall be by ballot, but the legislature may provide for the numbering ballots for the purpose of preventing and detecting fraud.

Section 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

Provisions Deleted From Present Article

Section 2. This Section allows for an election to determine if women should vote. Article 19 of the United States Constitution, which was ratified in 1920, gave women the right to vote. This section is clearly obsolete.

Section 4. This Section, stating that all general elections shall be biennial can be controlled by statute.

Section 9. This Section allowing women to run for office is obsolete.

Section 10. This Section which allows a person to vote for the President and Vice-President of the United States is controlled by federal and state law.

Issued in furtherance of Cooperative Extension work, acts of May 8 and June 30, 1914, in cooperation with the United States Department of Agriculture. J. Orville Young, Director of Extension Service, South Dakota State University, Brookings. The South Dakota Cooperative Extension Service offers educational programs and materials to all people without regard to race, color, religion, sex, or national origin and is an Equal Opportunity Employer.

File: 5.3—25M—8-74—3146

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